

1 MORGAN, LEWIS & BOCKIUS LLP
CARRIE A. GONELL, SBN 257163
2 cgonell@morganlewis.com
JOHN D. HAYASHI, SBN 211077
3 jhayashi@morganlewis.com
ALEXANDER L. GRODAN, SBN 261374
4 agrodan@morganlewis.com
5 5 Park Plaza, Suite 1750
Irvine, CA 92614
Tel: 949.399.7000
6 Fax: 949.399.7001

7 Attorneys for Defendant
JPMORGAN CHASE BANK, N.A.

8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA
10

11 EVAN HIGHTOWER and ANN
12 ROSS, individually, and on behalf of
all other similarly situated,

13 Plaintiffs,

14 vs.

15 JPMORGAN CHASE BANK, N.A.;
and DOES 1 - 10, inclusive,

16 Defendants.

17 CAROLYN SALAZAR, ROGER AL-
18 CHAIKH, and ESTELLA SLIKKER,
individually, and on behalf of all other
19 members of the general public
similarly situated,

20 Plaintiffs,

21 vs.

22 JPMORGAN CHASE BANK, N.A.;
and DOES 1 through 10, inclusive,

23 Defendant.
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Case No. 11-CV-01802-PSG-PLAx
[DISCOVERY MATTER]

PROTECTIVE ORDER

1 REGINA M. SIMPSON and REGINA
2 STURDIVANT, individually, on
3 behalf of themselves, all other
similarly situated, and on behalf of the
general public;

4 Plaintiffs,

5 vs.

6 JPMORGAN CHASE BANK, a New
York corporation; JPMORGAN
7 CHASE & CO., a Delaware
corporation; CHASE HOME
8 FINANCE LLC, a Delaware limited
liability company; and DOES 1 to 10,
inclusive,

9 Defendants.

10 DENNIS KHUTORETSKY,
11 MIKHAIL LIRMAN, and BORIS
SHULMAN, on behalf of themselves
12 and all other similarly situated,

13 Plaintiffs,

14 vs.

15 J.P. MORGAN CHASE & CO., and
J.P. MORGAN CHASE BANK, N.A.,

16 Defendants.

[PROPOSED] PROTECTIVE ORDER

DEFINITIONS

1. For the purpose of this Order:

(a) “Information” is defined broadly to include information in any form, whether provided in response to a request for information, in documents, or in testimony;

(b) “Document” is defined broadly to include tangible paper as well as information stored electronically on disc, tape or otherwise;

(c) “Confidential Material” is defined to include information designated as “Confidential” or “Highly Confidential – Attorneys’ Eyes Only” or provisionally treated as “Confidential” or “Highly Confidential – Attorneys’ Eyes Only” under the terms of this Order.

SCOPE, DESIGNATION AND USE OF CONFIDENTIAL MATERIAL

2. The parties acknowledge that they will be requesting and exchanging documents and information solely because they are parties to the Litigation and therefore agree that all material exchanged between them will be used only for purposes of and in connection with prosecuting or defending this Litigation, actions that have been related to this Litigation, and/or alternative dispute resolution efforts between the parties hereto and for no other purpose. In addition, the parties acknowledge that certain of the documents and materials exchanged in discovery in this Litigation will be sensitive and confidential and deserve additional protections from disclosure, as set forth in this Order. Counsel for each party, and each person receiving Confidential Material must take reasonable precautions to prevent the unauthorized or inadvertent disclosure of such information.

3. A party or non-party subject to discovery in the Litigation may designate as “Confidential” or “Highly Confidential – Attorneys’ Eyes Only” documents or information produced in discovery that the party or non-party

1 considers in good faith to contain confidential information, including but not
2 limited to information falling within the following categories:

3 (a) Confidential Information. “CONFIDENTIAL
4 INFORMATION” is defined herein as:

- 5 (i) a trade secret or other confidential research, development
6 or commercial information; and/or
7 (ii) any sensitive personal information of nonparties, the
8 parties, or their managers, representatives or employees,
9 current or former, including the following: Social
10 Security number, date of birth, medical records, medical
11 information, personnel records, address(es), telephone
12 records/numbers, e-mail address(es), wage and benefit
13 data, account numbers, tax records, and other financial
14 information such as credits, loans, or other business
15 transactions, assets, and/or income data;

16 (b) Attorneys’ Eyes Only Information. “ATTORNEYS’
17 EYES ONLY INFORMATION” is defined herein as CONFIDENTIAL
18 INFORMATION which constitutes, discloses, reveals, describes or
19 discusses, in whole or in part, a trade secret within the meaning of the
20 California Uniform Trade Secrets Act, financial statements or budgets of
21 Defendant, provided however, to the extent that any party intends to rely on
22 that party’s budgets, financial statements or net worth information in support
23 of, or in defense against, a claim for damages or for recovery of equitable
24 relief of a monetary nature, such information shall be designated as
25 Confidential, and not Attorneys’ Eyes Only.

26 4. A party or non-party seeking to designate as “Confidential” or “Highly
27 Confidential – Attorneys’ Eyes Only” any document that that party or non-party
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1 produces in response to a document request or subpoena in the Litigation shall
2 designate the document as confidential by labeling the document “Confidential” or
3 “Highly Confidential – Attorneys’ Eyes Only” on the face of each page of the
4 document, along with an indication identifying the producing party. In the event a
5 producing party elects to produce materials for inspection, no marking need be
6 made by the producing party in advance of the initial inspection. For purposes of
7 the initial inspection, all materials produced will be considered as “Highly
8 Confidential – Attorneys’ Eyes Only” and must be treated as such pursuant to the
9 terms of this Order. Thereafter, upon selection of specified materials for copying
10 by the inspecting party, the producing party must, within a reasonable time prior to
11 producing those materials to the inspecting party, mark the copies of those materials
12 that contain Confidential Information with the appropriate confidentiality marking.

13 5. If a party believes that a document produced by someone other than
14 that party contains confidential information, the party wishing to designate such
15 confidential information under the terms of this Order shall notify the other party in
16 the Litigation in writing that it considers the information confidential, label the
17 affected document with the legend “Confidential” or “Highly Confidential –
18 Attorneys’ Eyes Only” on the face of each page of the document along with an
19 indication identifying the party designating the document as confidential, and send
20 a copy of the document with the appropriate “Confidential” or “Highly Confidential
21 – Attorneys’ Eyes Only” legend to the non-designating party.

22 6. A party or non-party seeking to designate as “Confidential” or “Highly
23 Confidential – Attorneys’ Eyes Only” any written response to an interrogatory or
24 other request provided by that party or non-party shall designate the response as
25 confidential by clearly indicating the page(s) or section(s) of the response that is
26 designated as confidential, including by placing the legend “Confidential” or
27 “Highly Confidential – Attorneys’ Eyes Only” on the face of each page of the
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1 response that contains confidential information. If a party believes that a written
 2 discovery response served by someone other than the party seeking to designate the
 3 response or any portion thereto as confidential, the designating party shall designate
 4 the response as confidential by clearly indicating the page(s) or section(s) of the
 5 response that is designated as confidential, including by placing the legend
 6 “Confidential” or “Highly Confidential – Attorneys’ Eyes Only” on the face of each
 7 page of the response that contains confidential information, and shall send a copy of
 8 the document with the appropriate confidentiality legend to the non-designating
 9 party.

10 7. A party also may designate as “Confidential” or “Highly Confidential
 11 – Attorneys’ Eyes Only” any deposition testimony by (a) stating orally on the
 12 record of a deposition that the entire transcript or portion thereof is “Confidential”
 13 or “Highly Confidential – Attorneys’ Eyes Only”; or (b) by written notice to
 14 counsel for the other party in the Litigation of such designation within seven (7)
 15 days after receipt of the deposition transcript.

16 (a) Disclosure of Confidential Transcripts to the Deponent.

17 Deposition transcripts containing Protected Material may be shown to the
 18 deponent for the purpose of correction, but the deponent may not retain a
 19 copy of the transcript unless (s)he agrees to be bound by this Protective
 20 Order by signing a copy of the Acknowledgement Form.

21 (b) Transcript pages containing or constituting
 22 CONFIDENTIAL INFORMATION shall be separately bound by the court
 23 reporter and marked “CONFIDENTIAL” on each page. If a Receiving Party
 24 wishes to show non-CONFIDENTIAL portions of a document or transcript
 25 containing CONFIDENTIAL INFORMATION to a person or party not
 26 described below in Paragraph 12, it shall first redact all pages designated
 27 CONFIDENTIAL.
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1 8. The parties shall provisionally treat all documents and written
2 discovery responses as Confidential until five (5) calendar days after receipt of such
3 documents or discovery responses, unless otherwise agreed by the parties in
4 writing. The parties shall provisionally treat all deposition testimony as
5 Confidential until seven (7) calendar days after the receipt of each volume of
6 deposition transcript, unless otherwise agreed by the parties in writing. If no party
7 or non-party has designated documents, written discovery responses, deposition
8 testimony or other information as confidential within these time periods, the
9 documents and information shall thereafter be treated as if they are not Confidential
10 Material, unless and until a party later designates such documents, written
11 discovery responses or deposition as Confidential Material.

12 9. Failure to designate material as Confidential using the procedures
13 described above shall not operate to waive a party's or non-party's ability to later so
14 designate such material. Information inadvertently disclosed without being
15 designated as confidential may thereafter be designated confidential by promptly
16 notifying the party/ies receiving the information in writing that such information is
17 confidential, and, where appropriate, sending copies of the designated pages
18 containing confidential information with the appropriate "Confidential" or "Highly
19 Confidential – Attorneys' Eyes Only" legend placed on the face of each page that
20 contains confidential information.

21 10. Neither the original nor any copy of any document, response,
22 testimony or information which contains or constitutes Confidential Material nor
23 any excerpt, quotation, paraphrase or other description thereof which conveys the
24 confidential contents thereof shall be disclosed to any person, or used for any
25 purpose, except in accordance with the terms of this Order.

26 11. Access to and disclosure of sensitive personal information and
27 documents that have been designated as "Confidential," including but not limited to
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1 employee personnel files and employee payroll information, shall be limited to the
2 to those persons identified in Paragraphs 12(a), (b), (d), and (f) and the employee to
3 whom the personal documents and information relates.

4 12. Subject to Paragraph 11, access to and disclosure of other documents
5 or information designated by any party or non-party as "Confidential" shall be
6 limited, except as otherwise provided herein, or agreed by the parties in writing, or
7 as otherwise ordered by the Court, to:

8 (a) The attorneys of record in this Litigation or any action
9 that has been related to this Litigation and in-house counsel, if any, for said
10 parties, their clerical, paralegal and other employees, and Defendants'
11 managers, officers, executives, and directors, who reasonably need access to
12 the Confidential Material in connection with and to assist with the
13 prosecution or defense of this action, and personnel from any third-party
14 vendors retained to assist the attorneys with document collection, translation,
15 photocopying, scanning, or other services related to the prosecution or
16 defense of this Litigation;

17 (b) This Court, any court to which a party petitions for
18 discovery of a non-party, and court personnel, including but not limited to
19 court reporters, translators and persons operating video recording equipment;

20 (c) The parties to this action and those employees of the
21 parties who reasonably need access to the Confidential Material in
22 connection with and to assist with the prosecution or defense of this action;

23 (d) Any person who authored or received the Confidential
24 Material prior to the commencement of the Litigation;

25 (e) Any witness not encompassed by the terms of paragraphs
26 12(c) or 12(d), above, whose deposition is taken in this action or who is
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1 being prepared by counsel to give testimony at deposition, provided that any
2 such witness abide by the terms of paragraph 14 below; and

3 (f) Outside experts and consultants for any party, whose
4 advice or consultation is being or will be used by such party in connection
5 with this Litigation, and their employees who reasonably need access to the
6 Confidential Material in connection with and to assist with the prosecution or
7 defense of this Litigation, provided that any such outside expert, consultant,
8 or their employees witness abide by the terms of paragraph 14 below.

9 13. Access to and disclosure of documents or information designated by
10 any party or non-party as "Highly Confidential – Attorneys' Eyes Only" shall be
11 limited, except as otherwise provided herein, or agreed by the parties in writing, or
12 as otherwise ordered by the Court, to those persons identified in Paragraphs 12(a),
13 (b), (d), (e), and/or (f).

14 14. The attorneys for a party may disclose Confidential Material to any
15 person described in Paragraph 12(e), above, provided, however, that the witness
16 first must be shown this Order and agree to abide by its terms by signing the Non-
17 Disclosure Agreement attached hereto as Exhibit 1. Any such deponent or witness
18 may be shown Confidential Material but shall not retain the original, any copy or
19 any notes of any such Confidential Material.

20 15. The attorneys for a party may disclose Confidential Material to any
21 person described in Paragraph 12(f), above, provided, however, that the expert,
22 consultant or employee of an expert or consultant first must be shown this Order
23 and agree to abide by its terms by signing the Non-Disclosure Agreement attached
24 hereto as Exhibit 1. Any such expert, consultant or employee of an expert or
25 consultant shall not retain the original, any copy or any notes of any such
26 Confidential Material for longer than three (3) months after the final termination of
27 the Litigation.
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1 16. If a party or any of its representatives, including counsel, inadvertently
2 discloses any Confidential Material to a person not authorized by this Order to use
3 or possess such Confidential Material, the disclosing party shall provide immediate
4 written notice of the disclosure to the party or non-party whose Confidential
5 Material was inadvertently disclosed. The disclosing party shall also promptly take
6 reasonable measures to obtain the return of such inadvertently disclosed
7 information. If a party has actual knowledge that Confidential Material is being
8 used or possessed by a person not authorized to use or possess that material,
9 regardless of how the material was disclosed or obtained by such person, the party
10 shall provide immediate written notice of the unauthorized use or possession to the
11 party or non-party whose Confidential Material is being used or possessed.

12 17. Any party, through counsel, may make a good faith written objection
13 to the designation of any document, response, testimony or information as
14 “Confidential” or “Highly Confidential – Attorneys’ Eyes Only.” The good faith
15 written objection must notify counsel for the designating party of the objected-to
16 materials and the grounds for the objection. The parties shall meet and confer in
17 good faith to attempt to resolve the dispute without the intervention of the Court. If
18 it is not possible to resolve the dispute, the party making the confidentiality
19 designation shall make a motion before the Court pursuant to Local Rule 37
20 seeking to preserve the confidentiality designation. Applicable California law shall
21 govern the burden and standard of proof on any such motion. The failure to object
22 to the confidential designation shall not be construed as a concession that the
23 information is confidential.

24 18. Any party or non-party may remove or downgrade its own
25 confidentiality designation of documents or information by providing written notice
26 to the other party or to the parties of the de-designation or downgrade, or by
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1 providing new copies of the documents or materials with any confidentiality legend
2 removed or replaced with the appropriate legend.

3 19. In the event that any brief, memorandum or other paper to be
4 submitted to the Court by or on behalf of a party or non-party contains Confidential
5 Material of any other party or non-party that designated that material as
6 confidential, the party or non-party submitting the Confidential Material to the
7 Court shall file the Confidential Material provisionally under seal pursuant to any
8 applicable Local Rules of the Court. Good cause must be shown in the application
9 to file under seal. If a party needing to submit Confidential Material designated by
10 the other party or a non-party in connection with a brief, memorandum or other
11 paper to be submitted to the Court believes that the confidentiality designation is
12 incorrect, such that the Confidential Material need not be filed provisionally under
13 seal, that party shall meet and confer with the designating party or non-party
14 pursuant to paragraph 17 of this Order reasonably in advance of the date the
15 Confidential Material is to be submitted to the Court. If a non-party designated the
16 material to be submitted to the Court as confidential, the party submitting the
17 Confidential Material to the Court shall meet and confer with that designating non-
18 party reasonably in advance of the date the Confidential Material is to be submitted
19 to the Court and/or provide contemporaneous notice to the non-party that its
20 Confidential Information has been submitted to the Court provisionally under seal.

21 20. This Order shall not and does not constitute an admission or
22 concession or permit an inference that any document, response, testimony or
23 information constituting Confidential Material is, in fact, confidential for purposes
24 other than the proper safeguarding of materials produced in discovery in this
25 Litigation. Conversely, any disclosure of Confidential Material under this Order
26 shall not be construed as a waiver of the confidentiality of the information.

27 **TERMINATION OF LITIGATION**
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1 21. After termination of this Litigation, each party shall continue to
 2 maintain and limit access and disclosure to all material in the manner provided in
 3 this Order. No later than three (3) months after the final termination of the
 4 Litigation, including the exhaustion of any appeals and cross-appeals and requests
 5 for discretionary review, each person or party subject to the terms of this Protective
 6 Order upon request (1) shall either (a) return all materials produced to it in
 7 discovery to the party or non-party that produced the document, written response or
 8 information; or (b) destroy all materials produced to it in discovery to the party or
 9 non-party that produced the document, written response or information, and (2)
 10 shall promptly certify in writing to the other party and any non-parties that such
 11 documents have been destroyed or returned. Nothing herein shall obligate any
 12 person or party to destroy (i) attorney work product, including, without limitation,
 13 attorney notes or memos, collections of documents used for litigation purposes, and
 14 deposition summaries; (ii) any transcript of any deposition, hearing, or trial
 15 proceeding and exhibits attached to such a transcript; and/or (iii) any pleading or
 16 paper served on another party or filed with the Court in the Litigation, and any
 17 exhibits attached to such a pleading or paper.

18 22. This Court shall retain jurisdiction over the Litigation following its
 19 termination (whether by judgment, settlement, or otherwise) for the purpose of
 20 enforcing this Order.

21 **MISCELLANEOUS**

22 23. If any party receives from a third party a subpoena, discovery request
 23 or other demand for information disclosed in this case by the other party or a non-
 24 party, the party receiving the subpoena, discovery request or other demand shall
 25 immediately notify the producing party or non-party that it has received a demand
 26 for the information, and shall not provide any response or information until at least
 27 fifteen (15) days have passed from said notice, unless the subpoena provides a
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1 shorter time period. The party receiving the subpoena, discovery request or other
 2 demand shall reasonably cooperate with the designating party if the producing party
 3 or non-party seeks a protective order or other limitation on disclosure of the
 4 Confidential Material. The producing party shall pay the reasonable expense of
 5 such cooperative efforts.

6 24. Nothing in this Order and no action taken pursuant to it shall be
 7 construed or asserted to be (a) an agreement by the parties to produce any
 8 documents or supply any information or testimony in discovery not otherwise
 9 agreed upon or required by applicable California law; (b) a waiver by any person or
 10 party of any right to object to or seek a further protective order with respect to any
 11 discovery request in this or any other action.; or (c) a waiver of any claim of
 12 immunity or privilege with regard to any testimony, documents or information.

13 25. Nothing in this Order and no action taken pursuant to it shall be
 14 construed or asserted to waive any objection to the alleged relevancy or
 15 admissibility of any document, testimony or other evidence at any proceeding in the
 16 Litigation.

17 26. This Order does not govern the treatment of Confidential Material at
 18 trial, which the parties and the Court will address by a Stipulation and Order issued
 19 at an appropriate time in the future.

20 27. This Order may be modified in part or entirely by written agreement of
 21 the parties hereto or upon application to and entry of an Order by the Court for
 22 good cause shown.

23 IT IS SO ORDERED.

24 Dated: August 8, 2012



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 26
 27 Honorable Paul L. Abrams
 United States Magistrate Judge

EXHIBIT "1" TO PROTECTIVE ORDER
NON-DISCLOSURE AGREEMENT

I certify that I have carefully read the Protective Order in the case of *Hightower, et al., vs. JPMorgan Chase Bank, N.A.*, Central District of California Case No. 11-CV-01802-PSG-PLAx, and that I fully understand the terms of the Order. I understand that Confidential Material is being provided to me pursuant to the terms and restrictions of the Protective Order. I recognize that I am bound by the terms of this Protective Order and I agree to comply with those terms. I certify that I will not reveal Confidential Material to anyone except as allowed by the Protective Order and will maintain all such Confidential Material, including copies, notes or other transcripts made therefrom, in a secure manner to prevent unauthorized access to it.

I hereby consent to the personal jurisdiction of the United States District Court, Central District of California for any proceedings involving the enforcement of that Order.

Executed this day ____ of _____, 20____, at _____,

_____.

Signature

Name

Affiliation or Company

Business Address

Home Address